

the first time able to respond the alleged applicability of these two cited references to the patent claims now on file). Neither of these two cited references when viewed alone or in combination anticipate or render obvious Applicant's claimed invention as presently claimed in Claims 1, 3-11 and 13-21.

The principal Balamuth reference only discloses treatment of a person who is in a fluid such as water (see the person 12 located within a tub 14) (see Figures 1 and 2). In this regard, please also note Column 3, lines 37-39 where it is stated "...sonic wave reproducers, which will inundate the submerged individual or individuals with water transmitted vibrations..." (emphasis added). See also Column 7, last three lines. Please also note in this regard Column 5, lines 13-18 wherein it is stated "Once the human 12 is placed in the acoustic auditorium 14 with the fluid medium 15 therein then a transmission through the fluid medium of acoustic vibrations may occur to obtain a micromassaging of at least a portion of the human body so that the energy penetrates pervasively into the acoustically accessible inner region of the body for physiotherapy effects." (emphasis added). Furthermore, the Examiner recognizes that the transducer 45 of Balamuth is not located in the water (please see Column 5, lines 44 and 45), since "The transducer 45 and generator are shown contained between the walls 20 and 24...". As can be seen with reference to Figure 2, the walls 20 and 24 are outside the tub 14, therefore, the transducer 45 is not located in the water 15 of the tub 14. Another problem with the cited Balamuth reference is the discussion

In Column 5, lines 19 to 32. This portion of Balamuth discusses "ultrasonic elastic waves" (see line 19 of Column 5), "ultrasonic frequency" (see line 24 of Column 5) and contains the statement "The operating frequency may be in the higher sonic or ultrasonic ranges when treating humans." (See lines 31 and 32 of Column 5) (emphasis added). The term ULTRASONIC is well established to mean frequencies above 20,000 cycles per second and it is also well established that the sonic or audible hearing range is from 20 cycles per second to 20,000 cycles per second. Therefore, the use of the statement in Balamuth on lines 25 and 26 of Column 5 of "500 cycles per second to 10,000,000 cycles per second" as being an "ultrasonic frequency" (see line 24 of Column 5) is totally inconsistent with the technical term ultrasonic frequency. Both Claims 33 and 42 of Balamuth state a range of 5,000 (not 500) cycles per second to 2,000,000 cycles per second. In any event, there is no teaching in Balamuth of treating the illnesses or disorders affecting body tissue (see pages 1-6 of Applicant's specification) as is now possible by Applicant's claimed method.

With regard to the cited Nedley reference which the Examiner has combined with Balamuth, the Nedley reference also teaches the use of a bath 24 filled with water 30 to receive a person 28 in order to have the person's chest immersed in water to permit vibrations at the pulmonary resonant frequency to be directly transmitted to the person's lungs. The frequencies disclosed in Nedley are 40 to 160 cycles per second (see Column 2, line 31), 80 cycles per second (see Column 1, lines 53 and 54) and 16 cycles per

second (see Column 2 line 10 and line 34; and Column 4, lines 42 and 43). Thus, these low frequencies disclosed in Nedley for the vibrator 34 cannot provide the treatment claimed by the Applicant.

Candidly, it would appear to be technically impossible to combine or substitute Balamuth's use of an exterior ultrasonic transducer 45 which produces ultrasonic frequencies with the interior vibrator 34 of Nedley, which produces low frequencies of 40 to 160 cycles per second. Stated in other words, imagine what would happen to a person in a tub that was subjected to ultrasonic frequencies from an interior transducer.

It is not necessary to repeat the citation of numerous Federal Circuit Court Of Appeals legal decisions that reject combining references without any suggestions of such combinations in either reference. This is especially important here where the ultrasonic transducer 45 of Balamuth cannot be used in place of the low frequency vibrator 34 of Nedley.

Accordingly, the Examiner's attention is respectfully directed to Applicant's Claims wherein, besides the preamble portion of independent Claim 1 and 14 which are directed to patentable subject matter not disclosed, taught or suggested in either Balamuth or Nedley or their combination, independent Claim 1 recites "providing a low frequency sonic transducer in a liquid containing container; positioning a person having an inflammatory musculoskeletal connective tissue disorder a therapeutically beneficial distance from said container; wherein said therapeutically beneficial distance is between approximately one foot and approximately twenty

feet from said container; and exposing said person for a therapeutically beneficial period of time to acoustic waves from said low frequency sonic transducer at a therapeutically beneficial frequency." All of these method steps and the distance recitation in combination patentably distinguish over either Blamuth or Nedley or their combination. Neither Balamuth nor Nedley show or suggest treating someone outside a container with a low frequency transducer located in a liquid containing container as claimed by the Applicant.

Independent Claim 14 adds the exposure time method step which when combined with the other method steps and distance recitations of Claim 14 patentably distinguishes over either Balamuth or Nedley or their combination.

Accordingly the allowance of the claims now on file is respectfully solicited.

If there are any fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,


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